

### **REMARKS**

Applicants request reconsideration of the present application in view of this Amendment.

#### **Claim 1**

Claim 1 is the base claim of claim 4. The Examiner indicated the subject matter of claim 4 to be patentable. Accordingly, claim 4 and intervening claim 3 are canceled, and their limitations are added to claim 1. In doing so, the terms "measuring" and "footprint" are omitted as being unnecessary in view of the terms "determining" and "thermal image of a sole of a foot" being added from claims 3 and 4. Therefore, claim 1 is allowable.

#### **Claims 2 and 5**

Claims 2 and 5 depend from claim 1. The limitations that they add to claim 1 distinguish them further from the prior art. Therefore, claims 2 and 5 also are allowable.

#### **Claim 6**

The Examiner indicated the subject matter of claim 7 to be allowable. Accordingly, claim 7 is canceled and its limitation added to claim 6. Therefore, claim 6 should be allowable.

#### **Claims 8, 10-13 and 15-16**

Claims 8, 10-13 and 15-16 depend from claim 6. The limitations that they add to claim 6 distinguish them further from the prior art. Therefore, claims 8, 10-13 and 15-16 also are allowable.

#### **Claims 29**

The Examiner indicated the subject matter of claim 29 as being allowable. Claim 29 is accordingly rewritten in independent form by incorporating the limitations of base claim 1. In doing so, the terms "measuring" and "footprint" from claim 1 are omitted as being unnecessary in view of the terms "determining" and "thermal image of a sole of a foot" being recited in claim 29. Therefore, claim 29 should be allowable.

#### **Claims 30-31**

Claims 30-31 depend from claim 29. The limitations that they add to claim 29 distinguish them further from the prior art. Therefore, claims 30-31 also are patentable.

Claim 48 (previously presented): A method comprising:  
stocking foot orthotics of different arch heights;  
~~measuring an arch height of a sole of a foot;~~  
obtaining a thermal image of a sole of a foot;  
determining an arch height from the thermal image; and  
selecting, from the stocked orthotics, an orthotic of which the arch height most closely matches the measured arch height.

Claim 49 (canceled)

Claim 50 (currently amended): The method of claim 49 ~~48~~ wherein the stocking step includes stocking the orthotics on a merchandise rack positioned adjacent to a thermal imaging device, and the ~~measuring~~ obtaining step includes obtaining the thermal image from the imaging device.

Claim 51 (previously presented): The method of claim 48 wherein the orthotics can be heat-softened, and the method further comprises the step, after the selecting step, of pressing the sole against the selected orthotic while the selected orthotic is installed in a shoe in a heat-softened state for the orthotic to conform to the shape of the sole.

Claim 52-54 (canceled)

**Claim 48**

The Examiner indicated the subject matter of claim 49 to be allowable. Accordingly, claim 49 is canceled, and its limitations are added to claim 48. In doing so, the term "measuring" is omitted as being unnecessary in view of the term "determining" being added from claim 49. Therefore, claim 49 should be allowable.

**Claims 50-51**

Claims 50-51 depend from claim 48. The limitations that they add to claim 48 distinguish them further from the prior art. Therefore, claims 50-51 also are patentable.

**Consideration of Prior Art Document**

Applicants request consideration of the "PressurStat" prior art document submitted with an IDS filed with the originally filed application and later resubmitted with a Request for Reconsideration of Information Disclosure Statement on March 2, 2005.

The application is now in condition for allowance, and allowance is requested.

Respectfully submitted,

Mitchell Rose  
Mitchell Rose, Patent Agent  
Registration No. 47,906  
JONES DAY  
901 Lakeside Ave.  
Cleveland, OH 44114  
(216)586-7094

Date: 8/24/05